



SNIP *Synopsis*

Electronic Newsletter from WEDI SNIP

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In the News

Privacy Rule Released -- WEDI SNIP Hosting Introduction to WEDI PAG

The text of the Privacy Final Rule was published in the Federal Register December 28, 2000. The full text of the rule can be downloaded from the Administrative Simplification website at <http://aspe.hhs.gov/admnsimp> or from the Government Printing Office at http://www.access.gpo.gov/su_docs/aces/aces140.html.

During its quarterly forum in Chicago January 15-16, 2001, WEDI SNIP will feature a **Primer for Privacy** designed to give you a jump-start in preparing for the **WEDI Policy Advisory Group (PAG)** meeting on Privacy tentatively scheduled for February 26-28 in Washington, DC. The Primer will review the key issues, examine differences in language from the NPRM and identify the residual concerns to be addressed in the PAG. Additional highlights related to Privacy and Security at the Forum will include:

- New **Minimum Necessary** white paper
- Distribution of version 1.4 of the Security White Papers
- New **Preemption** white paper

[Click here](#) for additional information and on-line registration.

Key provisions of the Privacy final rule include:

- The final rule expands in scope from the proposed version of November 1999 to cover all paper records and oral communications as well as electronic records. The proposed rule had covered only electronic records.
- Patients must receive a clear written notice of their rights, explaining how their medical information will be stored, used and disclosed. Patients will have the right to obtain, within 60 days of their request, a disclosure history listing entities that obtained information unrelated to treatment, payment or

healthcare operations.

- Providers must appoint a “privacy officer” to develop and implement privacy policies within the organization and to help patients with privacy questions and concerns. Employees must receive training on the organization’s privacy policies.
- Written consent must be obtained in advance from the patient for routine transfer of information. A single signature would cover the disclosure of information for treatment and billing, but additional signatures would be needed for other uses, such as disclosure of medical information to an employer. Permission to release medical information cannot be required as a condition of treatment. For most disclosures of information, such as billing, providers may send only the minimum information necessary. For purposes of treatment, providers have full discretion in determining what information to send to other providers.
- Providers must ensure compliance with these standards by their business associates. If they know of a violation by a business associate and take no steps to correct that situation, the provider can be held responsible for violating the rules. It is expected that providers will write business associate agreements that ensure each party complies with the law.
- The final rule clarifies that employers may not access medical information for purposes unrelated to health care.
- The regulation establishes different levels of penalty for non-compliance. They range from a \$100 per person fine per incident of unintentional disclosure (which can total up to \$25,000 per person per year) up to a \$250,000 fine and 10 years in jail for selling medical information. There is no private right of action established, thus patients do not have new grounds for suing providers under this rule.
- Patients will have the right to inspect, copy and amend information in their record. If such requests are denied, the rule permits patients to file a complaint with the health care provider or the federal government.
- The Federal rule will supersede all weaker state laws, although states are free to enact and enforce more stringent provisions. However, states may not restrict a patient’s right to access, inspect, copy and amend their health information.
- Law enforcement officers may obtain medical information only with a warrant, a subpoena, or other written legal order such as a civil investigative demand or an administrative subpoena issued by government investigators.
- HHS calculates that implementation of the rule will cost \$17.6 billion to implement nationwide. However, the Department also projects savings over ten years of \$29.9 billion due to the implementation of other HIPAA-mandated standards. HHS believes that, taken as a whole, the various

provisions of HIPAA will eventually result in substantial savings to the health care industry.

Timetable for Next Regulations

The anticipated timetable for other pending regulations is:

- Early 2001 - Final rules for Security
- Early spring 2001 – Final rules for Employer ID and National Provider ID
- Late spring 2001 - Proposed rules for the Health Plan ID and Claim Attachments
- End of 2001 – Proposed rule for Enforcement

Upcoming Events

SNIP Forum 1/15 –16 Chicago

Mark your calendars for January 15 – 16, 2001 – the date for the SNIP quarterly Forum at the Hyatt Regency O'Hare in Chicago. This forum will provide updates from the SNIP Transaction, Security and Education Work Groups.

WEDI Privacy PAG

Watch the WEDI website <http://www.wedi.org> for announcement of the meeting of the WEDI Policy Advisory Group (PAG) focusing on the Privacy Final Rule. The date of the meeting will be announced shortly.